

May 21, 1997

MEMORANDUM FOR: John F. Cordes, Acting Director
Office of Commission Appellate Adjudication

FROM: John C. Hoyle, Secretary /s/

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION, 3:30 P.M., TUESDAY, MAY 20, 1997,
COMMISSIONERS' CONFERENCE ROOM, ONE WHITE FLINT NORTH, ROCKVILLE,
MARYLAND (OPEN TO PUBLIC ATTENDANCE)

I. SECY-97-104 - Ralph L. Tetrick, Presiding Officer's Initial Decision and Memorandum and Order Denying Reconsideration and Stay, LBP-97-2 and LBP-97-6

The Commission⁽¹⁾ approved a Memorandum and Order which remands one issue to the Presiding Officer and issues a temporary stay preserving the status quo until the case's final resolution.

The Commission was asked to respond to a request from the staff for a stay and review of the Presiding Officer's Initial Decision, LBP-97-2, and his Memorandum and Order denying the staff's request for reconsideration, LBP-97-6. The Commission's Order remands the issue of the correctness of Mr. Tetrick's response to question 63 of the written examination to the Presiding Officer and issues a temporary stay until the case is resolved.

(Subsequently, on May 20, 1997 the Secretary signed the Order.)

cc: Chairman Jackson
Commissioner Rogers
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
EDO
OGC
OCAA
OCA
OIG
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR - Advance
DCS - P1-17

¹ Section 201 of the Energy Reorganization Act, 42 U.S.C. Section 5841, provides that action of the Commission shall be determined by a "majority vote of the members present." Commissioner Diaz was not present when this item was affirmed. Accordingly the formal vote of the Commission was 4-0 in favor of the decision. Commissioner Diaz, however, had previously indicated that he would approve this paper and had he been present he would have affirmed his prior vote.